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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2003P15404WOUS		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 10/580,337	Filed 2006-05-23		
	First Named Inventor Reinhold Braam			
	Art Unit 2617	Examiner Babar Sarwar		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input type="checkbox"/> attorney or agent of record. Registration number _____</p><p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>55179</u></p></td><td style="width: 50%; vertical-align: top;"><p><u>/Ralph G. Fischer/</u> _____ Signature</p><p><u>Ralph G. Fischer</u> _____ Typed or printed name</p><p><u>412-392-2121</u> _____ Telephone number</p><p><u>2010-10-19</u> _____ Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>55179</u></p>	<p><u>/Ralph G. Fischer/</u> _____ Signature</p> <p><u>Ralph G. Fischer</u> _____ Typed or printed name</p> <p><u>412-392-2121</u> _____ Telephone number</p> <p><u>2010-10-19</u> _____ Date</p>
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<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>				

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

A. **Duggi Is Not Prior Art**

The Duggi reference is a published patent application. The patent application was filed on January 23, 2004, which is after the priority date of the present application. (The present application claims priority to a German patent application filed in November of 2003).

"The 35 U.S.C. 102(e) critical reference date of a U.S. patent or U.S. application publications and certain international application publications entitled to the benefit of the filing date of a provisional application under 35 U.S.C. 119(e) is the filing date of the provisional application **with certain exceptions if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph.**" MPEP § 2136.03 (emphasis added); *see also* MPEP § 706.02(f)(1).

The Duggi reference claims priority to a provisional patent application. The only way the Duggi reference may be prior art is if the content of that provisional patent application discloses the content relied upon by the Examiner. MPEP § 2136.03

The provisional application the Duggi reference claims priority to is U.S. Provisional Patent Application No. 60/497,274 filed on August 22, 2003. For the Examiner's reference, a copy of U.S. Provisional Patent Application No. 60/497,274 is provided herewith. Of course, the Examiner may access the contents of this application electronically as well via Public PAIR.

The text cited by the Examiner in the cited published patent application of Duggi is not accorded the filing date of the provisional patent application from which it claims priority. All the paragraphs relied upon by the Examiner, such as paragraph 50 and Figure 3 of Duggi, are not present in U.S. Provisional Patent Application No. 60/497,274. Indeed, U.S. Provisional Patent Application No. 60/497,274 does not contain any drawings. U.S. Provisional Patent Application

No. 60/497,274 contains no disclosure of any service discovery request message sent from a client or service requester.

The portions of the Duggi reference relied upon by the Examiner are not prior art under 35 U.S.C. § 102(e). Indeed, the teaching relied upon by the Examiner to reject all of the pending claims are not supported by the provisional application of Duggi. This information is only afforded the filing date of the Duggi reference, January 23, 2004, which is after the priority date for the claims of the present application. The Duggi reference is clearly not prior art to the claims of the present application.

In rejecting the pending claims in the Office Action of July 19, 2010, the Examiner failed to identify any portion of the Duggi provisional patent application that supports the rejection of the claims. The lone reference made to the Duggi provisional patent application is that page 1, sections 1-3 some how teach necessary steps of the pending claims. However, the Examiner has not relied on these sections to reject any of the pending claims. The Examiner cannot rely on new matter introduced in the Duggi reference after the Duggi provisional application was filed. MPEP § 2136.03. The Examiner can only rely on the information provided in the Duggi provisional patent application.

B. The Pending Claims Are Allowable

The pending claims all require a system or method to include routers that have a routing table. The routing tables of the routers that receive a service discovery request message are updated with routing information pertaining to the received service discovery request message. At least a portion of the routers is also configured to update their routing tables with routing information of a service discovery reply message transmitted from a service provider responding to the service discovery request message of the service requester.

The cited combination of art by the Examiner, which includes both Duggi and Elizabeth et al., cannot render the pending claims obvious. In fact, Elizabeth et al. specifically teach away from the pending claims. Also, as discussed above, Duggi is not prior art.

1. Elizabeth et al. Teach Away From The Claims

The Examiner has cited page 48 of Elizabeth et al. as suggesting the routers, service provider and service requester of the pending claims. To the contrary, Elizabeth et al. explicitly teach that the routers of the system disclosed on page 48 **"that are not on a selected path do not maintain routing information or participate in routing table exchanges."** (emphasis added). Contrary to the explicit teaching of Elizabeth et al., the method and system of the pending claims require all the routers to update routing tables. All routers that receive a service discovery request message in the pending claims update their routing tables in response to receipt of the message. Contrary to the teaching of Elizabeth et al., the routers of a selected path are not the only routers involved in maintaining routing information in the system and method of the pending claims.

2. The Cited Art Do Not Teach Routers That Update Routing Tables After Receiving A Service Discovery Request Message

The cited art also fails to teach or suggest any router that updates a routing table with routing information pertaining to a received service discovery request. Indeed, there is no teaching or suggestion of such a requirement in Elizabeth et al. or the Duggi.

The cited art teaches that routing tables are only updated in view of "full dump" or "incremental packets" relayed between routers (page 47 of Elizabeth et al.) or via hello messages (page 48 of Elizabeth et al.). The systems disclosed in the cited prior art only teach or suggest the forwarding of service discovery request messages to other routers until a service provider receives the message. There is no teaching or suggestion of any router being configured to

update its routing table in response to the receipt of a service discovery request message. Indeed, Elizabeth et al. teach that the routers **should not maintain routing information**. (Elizabeth et al. at 48).

The cited prior art does not teach or suggest all the limitations of the pending claims. In fact, the cited prior art teaches away from the pending claims. Also, as discussed above, Duggi is not a prior art reference.

For at least the above reasons, the pending claims are allowable over the cited art.

3. It Is Impermissible To Combine Elizabeth et al. With Duggi

Even if Duggi is improperly applied to the claims of the present application, it is impermissible to combine Duggi with a reference that teaches away from routers each maintaining their own routing table as taught by Elizabeth et al. Indeed, "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious." MPEP § 2143.01.

4. Duggi Is Only Directed To Maintaining Routing Tables

The Duggi reference is only directed to updating routing tables with new destinations or with information relating to repaired links. (Duggi Provisional Patent Application, at page 1, § 2). There is no responding to any service discovery request message from a service requester device.

5. Claim 37 Is Independently Allowable

The Duggi reference requires a router to already know the IP address of a destination a path marker request is sent to. (Duggi published patent application, at ¶¶ 37, 48). As stated in paragraph 37 of the Duggi published patent application, "Each one of the MANET nodes 101-

106 is aware of the Internet Protocol (IP) addresses of all of the MANET nodes 101-106 and is capable of directly communicating with other ones of MANET nodes 101-106 via individual radio frequency (RF) links (or hops)."

Claim 37 explicitly requires that "a destination address of the service provider device is unknown by the service requester device when the service discovery request message is sent." Such a requirement is exactly opposite the requirement of the system taught by Duggi. None of the cited references alone or in any combination teach or suggest such a service discovery request message or the sending of such a message. Indeed, the Duggi reference expressly teaches away from such a system by requiring his nodes to know the addresses of all other nodes.

Claim 37 is independently allowable over the cited art.